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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,223	01/26/2004	Byoung-Woo Cho	1781.1002	6553

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EXAMINER	
TOMPKINS, ALISSA JILL	
ART UNIT	**PAPER NUMBER**
3765	

DATE MAILED: 02/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/763,223	CHO, BYOUNG-WOO	
	Examiner	Art Unit	
	Alissa J. Tompkins	3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 December 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *26 January 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *1/26/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Response to Amendment

Applicant's amendment filed on 12/02/2005 has been received. The 35 U.S.C. 112 rejection has been alleviated. Claims 1-20 are still pending. US Publication 2002/0000001 A1 is now U.S. 6,557,180.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hall McKenzie (U.S. 6,557,180) in view of Konucik (U.S 4,941,210). Hall McKenzie shows reversible headwear made of a multiple fabric, which includes a plurality of panels connected to one another to form a crown portion (Figures 1 and 3-5). The headwear also has a head receiving part, which is a headband that receives the head of the wearer. However, Hall McKenzie is missing a sweatband that can be attached to the inner side of the headwear device. Konucik discloses a quick-change sweatband that is designed to be attached to a cap (Figure 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teachings of

Konucik to modify Hall McKenzie by placing the sweatband into the headgear, by attaching it to the inner side of the head receiving part along the lower edge in order to provide a sweatband that is comfortable and easy to attach/detach from the headwear.

Claims 4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hall McKenzie and Konucik in view of Lord et al. Hall McKenzie and Konucik disclose the invention substantially as applied in claims 1-3 above. However, they are missing fabric that is a warp double fabric or a warp-weft double fabric. Lord explains the sequence of operations of fabric manufacture including yarn preparation. He also shows a fabric having 2x2 warp rib (pg. 160) and a 2x2 filling rib (pg. 161). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teaching of Lord to modify Hall McKenzie and Konucik in order to understand the way in which to align fabrics; warp yarns lie across length while weft yarns lie across the width.

Claims 9-11 and 13-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hall McKenzie and Konucik and further in view of Yan (U.S. 6,131,202). Hall McKenzie and Konucik disclose the invention substantially as applied in claims 1-3 above. However, they are missing a sweatband including a stretchable fabric and a band core comprising a foam layer and an elastic band layer, wherein the band core and stretchable fabric are stitched along the lower edge with stretchable yarn. Shape tape is also stitched along the lower end to help maintain the shape of the headwear. Yan shows a stretchable fabric cap 2 made from cotton and spandex having a sweatband attached to the lower edge with stretchable thread (Column 3, 23-30 and 56-59). The sweatband 24 includes a band core (Figure 5), which has a foam

elastomeric band allowing alleviation of pressure for the wearer. He also shows bias tapes stitched along the lower end of the headwear helping maintain its shape. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teachings of Yan to modify Hall McKenzie and Konucik in order to provide a sweatband that offers the wearer more comfort and elasticity while allowing the headwear to be adapted to various head sizes without an additional size adjustable mechanism.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hall McKenzie and Konucik in further view of Lee (U.S. 6,347,410). Hall McKenzie and Konucik disclose the invention substantially as applied in claims 1-3 above. However, they are missing yarns that are uniaxially stretchable. Lee shows a self-sizing baseball cap 10 wherein the sweatband segment is uniaxially stretchable (Column 4, 7-8 and 11-12). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teachings of Lee to modify Hall McKenzie and Konucik in order to offer a cap that is able to stretch uniaxially providing additional comfort and use to more wearers.

Response to Arguments

Applicant's arguments filed 12/02/2005 have been fully considered but they are not persuasive.

Applicant submits that Hall McKenzie does not teach the use of a multiple fabric, in regard to claim 1. The claim language does not limit the invention to a fabric with two layers, when interpreted in the broadest reasonable sense, multiple fabric can be interpreted as either the use of more than one fabric or a single fabric construction. The device of Hall McKenzie shows a hat having a reversible crown 10 and 11, which have two major opposing surfaces. Moreover, Hall McKenzie also notes that the headwear piece can utilize various fabrics on the crown display (Column 2, 24-25) and is therefore interpreted to meet the limitations in the claim.

In regard to claim 5, applicant argues that the reference of Lord does not teach the claimed zigzag. The claim language only requires that the wefts pass by the first and second warps in zigzag to form loops, which is clearly shown on page 159 of the Lord reference. The examiner defines zigzag as having short sharp turns, which can also be seen in the reference. The specification does not state anything about the zigzag having sharp angles. The structure of Lord meets all of the claim limitations presented by the applicant.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa J. Tompkins whose telephone number is 571-272- 3425. The examiner can normally be reached on M-F 830-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on 571-272-4983. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alissa Tompkins
Patent Examiner
Art Unit 3765
February 7, 2006

AJT

JOHN J. CALVERT
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